

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE CONTROL BOARD
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MEETING

IN THE MATTER OF: :
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A.B.R.A. Agenda : Agenda
: Hearing
: :
: :

July 22, 2015

The Alcoholic Beverage Control Board
met in the Alcoholic Beverage Control Hearing
Room, Reeves Building, 2000 14th Street, N.W.,
Suite 400S, Washington, D.C. 20009, Chairperson
Ruthanne Miller, presiding.

PRESENT:

RUTHANNE MILLER, Chairperson
NICK ALBERTI, Member
DONALD BROOKS, Member
MIKE SILVERSTEIN, Member
HECTOR RODRIGUEZ, Member
JAMES SHORT, Member

P-R-O-C-E-E-D-I-N-G-S

2:54 p.m.

CHAIRPERSON MILLER: Okay. I am going to start with the Legal Agenda. This is for July 22, 2015.

No. 1 on the Legal Agenda is a settlement agreement between ANC-1A and Reliable Tavern & Hardware dated June 10, 2015. Reliable Tavern & Hardware is located at 3655 Georgia Avenue, N.W., License No. 098182.

I move that we approve with one modification and that would be to Paragraph No. 2, actually labeled No. 2, Nature of the Business on the first page of the settlement agreement. And the modification would be to delete the words "a substantial change in operation."

MEMBER RODRIGUEZ: Second it.

CHAIRPERSON MILLER: Okay. Mr. Rodriguez has seconded the motion.

All those in favor say aye.

ALL: Aye.

CHAIRPERSON MILLER: All those

1 opposed? All those abstaining? The motion
2 passes 5-0-0.

3 Okay. Moving on to the Supplemental
4 Legal Agenda.

5 The first item on the Supplemental
6 Legal Agenda is a settlement agreement between
7 ANC-1A and Walter's dated July 7, 2015. Walter's
8 is located at 3632 Georgia Avenue, N.W., License
9 No. 099133.

10 And I move that we approve with the
11 same modification that I referenced on the
12 previous case and that would be to Clause No. 2,
13 Nature of Business, and deleting "a substantial
14 change in operation" from the last sentence.

15 So do I have a second?

16 MEMBER BROOKS: Second.

17 CHAIRPERSON MILLER: Mr. Brooks has
18 seconded the motion.

19 All those in favor say aye.

20 ALL: Aye.

21 CHAIRPERSON MILLER: All those
22 opposed? All those abstaining? The motion

1 passes 6-0-0.

2 Next is another settlement agreement
3 that is between ANC-6D and Hyatt Place Washington
4 DC/National Mall dated July 13, 2015. Hyatt
5 Place Washington DC/National Mall is located at
6 400 E Street, S.W., License No. 099158.

7 I move that we approve with
8 modification to Paragraph 11 and the modification
9 would be to delete the last sentence of 11, which
10 reads "Applicant also specifically agrees to be
11 the sole owner of the ABC License."

12 Do I have a second?

13 MEMBER BROOKS: Second.

14 CHAIRPERSON MILLER: Mr. Brooks has
15 seconded the motion.

16 All those in favor say aye.

17 ALL: Aye.

18 CHAIRPERSON MILLER: All those
19 opposed? All those abstaining? The motion
20 passes 6-0-0.

21 No. 3 is a Motion to Reinstate the
22 application submitted by Dee Hunter on behalf of

1 Castello Restaurant & Lounge located at 931
2 Hamilton Street, N.W., License No. 097302.

3 Okay. And No. 4 is related to No. 3.
4 It's the opposition to the motion and that is
5 submitted by David Sheon on behalf of protestant
6 group of five or more individuals. And it is
7 related to the same place, Castello Restaurant &
8 Lounge, so I'm not going to read that again.

9 All right. Dee Hunter is moving on
10 behalf of the applicant to be reinstated. The
11 Board dismissed the application because no
12 representative of the applicant appeared during
13 the Status Hearing.

14 Mr. Dee appeared late. I guess, the
15 Status Hearing was at 9:30 and we actually waited
16 for quite a while to recall the case and he
17 wasn't there when we called it. And finally he
18 appeared at 11:00 after the status was well over.

19 So I would move that we deny the
20 Motion to Reinstate. Do I have a second?

21 MEMBER SILVERSTEIN: Second.

22 CHAIRPERSON MILLER: Mr. Silverstein

1 has seconded the motion.

2 All those in favor say aye.

3 MEMBER BROOKS: Aye.

4 MEMBER SHORT: Aye.

5 CHAIRPERSON MILLER: Aye.

6 MEMBER RODRIGUEZ: Aye.

7 MEMBER SILVERSTEIN: Aye.

8 CHAIRPERSON MILLER: All those
9 opposed?

10 MEMBER ALBERTI: Opposed.

11 CHAIRPERSON MILLER: All those
12 abstaining? Then it sounds like the motion
13 passes by a vote of 5-1-0 with Mr. Alberti
14 opposed.

15 Okay. So we have acted on No. 4, no
16 further action is required on that.

17 No. 5 is a review of a letter
18 regarding on-site whiskey sales dated July 16,
19 2015 submitted by Ryan Meyers on behalf of Jos.
20 A. Magnus & Co. located at 2052 West Virginia
21 Avenue, N.E., License No. 097825.

22 I would move that we approve the

1 concept identified in the letter and refer to
2 legal to get back to Ryan Meyers. Do I have a
3 second?

4 MEMBER SILVERSTEIN: Second.

5 CHAIRPERSON MILLER: Any other
6 comments? Okay.

7 All those in favor say aye.

8 ALL: Aye.

9 CHAIRPERSON MILLER: All those
10 opposed? All those abstaining? The motion
11 passes 6-0-0.

12 No. 6 is a request for reinstatement
13 of a protest submitted by Erica Hurtt, abutting
14 property owner, dated July 10, 2015. All Souls
15 is located at 725 T Street, N.W., License No.
16 088179.

17 Ms. Hurtt requests -- Ms. Hurtt was
18 dismissed for failure to appear at Roll Call
19 Hearing and she requested reinstatement on
20 grounds that she didn't receive the letter
21 communicating the date of the Roll Call Hearing
22 until after it occurred, because she was out of

1 town. I believe that was her reason. Yes.

2 Okay. So and then we got a letter in
3 opposition to this request from Mr. Kline on
4 behalf of the applicant opposing it.

5 All right. Any -- well, I would move
6 to -- well, does somebody have a motion on this
7 one?

8 MEMBER ALBERTI: For which one?

9 MEMBER SILVERSTEIN: I move to deny.

10 CHAIRPERSON MILLER: Okay. I think we
11 are on No. 6, the Motion to be Reinstated by
12 Erica Hurtt. Okay. Mr. Silverstein has moved to
13 deny. Is there a second?

14 MEMBER ALBERTI: Second.

15 CHAIRPERSON MILLER: Mr. Alberti
16 seconded the motion.

17 All those in favor say aye.

18 MEMBER ALBERTI: Aye.

19 MEMBER SILVERSTEIN: Aye.

20 MEMBER RODRIGUEZ: Aye.

21 MEMBER SHORT: Aye.

22 MEMBER BROOKS: Aye.

1 CHAIRPERSON MILLER: All those
2 opposed? Opposed.

3 All those abstaining? Okay. Then the
4 motion passes to deny by a vote of 5-1-0 with
5 Miller opposed.

6 Okay. Finally on the Legal Agenda we
7 have a Technical Amendment Rulemaking. Okay.
8 This is a rulemaking that addresses a lot of
9 various amendments to our regulations that we
10 have had, I believe, two hearings on and we have
11 gotten written documents or written testimony as
12 well.

13 And I am going to move approval of
14 these various amendments and ask for a second.

15 MEMBER SILVERSTEIN: Second.

16 CHAIRPERSON MILLER: Okay. And then
17 I'm going to ask if anybody wants to comment on
18 any of the rules? Okay. I would like to make
19 one comment.

20 In general, I agree with the rules
21 that are being proposed here and, therefore, I
22 will be voting for the rules. I would like to

1 note my opposition though to the amendments to
2 807, which are Sale to Minor violations, in
3 particular, where the Board expands the
4 definition of egregious so that there are now
5 one, two, three, four, five, six definitions of
6 egregious where there were two and at one time
7 there were three.

8 And I believe that the regulation is
9 well-intentioned, but I don't believe that it is
10 good law for the following reasons:

11 That I think that it is not as clear
12 or predictable and I think laws should be that
13 way. And that I don't think it is as fairly
14 enforceable in that we now separate how it is
15 egregious, minors who are under the age of 17,
16 yet our compliance checks use minors under the
17 age of 17 and over the age of 17 and I fear that
18 people will -- establishments will feel that they
19 may be unjustly or unequally treated if in some
20 instance over 17 year-olds are sent in and in
21 other instances and in other places, under 17
22 year-olds are sent in.

1 And in one case then the penalty will
2 be a warning for a first offense and in the other
3 instance, it would be thousands of dollars and
4 days stayed and suspended for basically the same
5 offense. And I don't think it's very easy to
6 determine the difference in age of minors over 17
7 and under 17 per se.

8 And I also think it is a little bit
9 muddy to have the two Categories C and D, where
10 in some instances it's three or more minors and
11 in other instances it's two or more minors. So,
12 to me, it's not that those are bad things
13 necessarily, but I think they make the law less
14 clear and I think the laws should be very clear
15 to the establishments.

16 And finally, I like some of the
17 additions. I think that our cases show that we
18 have seen what I would consider and I think the
19 Board considers egregious in instance where there
20 are multiple minors being sold and so I would
21 applaud that as an addition. I think that would
22 actually make the law clearer if we have that

1 provision in.

2 And I also support that addition of
3 the pattern which we had for a while, which was
4 added in the last round, but apparently was
5 temporary.

6 So I think we need to look more at our
7 data, but from what I have observed in my
8 experience, it's the multiple individuals that I
9 think are the greatest problem. So I think that
10 that's good that this regulation addresses that.

11 Those are my only comments.

12 MEMBER SHORT: Madam Chair?

13 CHAIRPERSON MILLER: Yes, Mr. Short?

14 MEMBER SHORT: Yes. Thank you very
15 much for your opinion on that, Madam Chair. I
16 would also like to go on the record stating that
17 the District of Columbia has a very serious issue
18 with licensees selling to underage youth of our
19 city and it's our job, as the Board, to rein that
20 in and to mete out justice as needed.

21 We debated egregious on many
22 occasions. I find that anyone who does not ask a

1 person for an ID and sells alcohol to a minor to
2 be borderline egregious. But when you sell to
3 two or three different people on the same evening
4 and you have a history of doing that, patterns
5 all come into play, but I think that this Board
6 is sending a message and I think that the record
7 should reflect that six Board Members agree that
8 the egregious articles that we are placing in,
9 placing there are necessary, needed and are part
10 of the law.

11 Thank you, Madam Chair.

12 CHAIRPERSON MILLER: Thank you.

13 Others?

14 MEMBER SILVERSTEIN: Madam Chair?

15 CHAIRPERSON MILLER: Yes, Mr.

16 Silverstein?

17 MEMBER SILVERSTEIN: Thank you, Madam
18 Chair. I have the same feeling about the age of
19 16.

20 CHAIRPERSON MILLER: Yes.

21 MEMBER SILVERSTEIN: And the law
22 states that it is against the law to sell to

1 anyone under the age of 21. I would say on its
2 face, the sale of liquor to anyone five years
3 younger than that is, by definition, egregious.
4 It is, of course, an arbitrary number, but we
5 have a lot of those in our laws, because we have
6 to set a standard somewhere.

7 This is not set anywhere near 21.

8 CHAIRPERSON MILLER: Yes.

9 MEMBER SILVERSTEIN: This is like
10 saying that a person who is going 80 miles an
11 hour in a residential neighborhood it is not just
12 speeding, but engaging in reckless driving. And
13 you are not going to get a ticket. You may get
14 your license taken away from you.

15 It's -- you know, if that person was
16 going 79 maybe they wouldn't. And if they are
17 going 80, they are. You have to set an exact
18 standard of where it begins and where it ends and
19 if that standard is far enough away from the 21
20 age, then I don't think there is any question. I
21 don't think any of us here could justify the sale
22 of alcoholic beverages to a 16 year-old when the

1 law places the limit at 21.

2 CHAIRPERSON MILLER: Well, I think
3 that's a point well-taken. And, you know, we
4 will see what the Council thinks. I just don't
5 know about, you know, whether you can tell that
6 he is close to 18 or whether, you know, that's
7 significant.

8 MEMBER SHORT: Madam Chair?

9 CHAIRPERSON MILLER: Yes.

10 MEMBER SHORT: Not to beat a dead
11 horse, but --

12 CHAIRPERSON MILLER: No, go ahead.

13 MEMBER SHORT: But if you don't ask
14 for an ID, you will never know if they are 16 or
15 26 or 12. If you don't ask for an ID, then the
16 owner shouldn't be on this body, the ABC Board or
17 on our D.C. Council. There should be a law that
18 if you sell to persons under 21 years of age, and
19 you don't even ask for an ID, then you have to
20 suffer the consequences.

21 CHAIRPERSON MILLER: Okay. Not to
22 beat a dead horse either, but I think the thing

1 is that the Council set up this. They said they
2 wanted comprehensive warnings years ago and they
3 rejected if you don't have an ID as being per se
4 egregious. So we will see what they do. We will
5 see what they do.

6 MEMBER SHORT: Okay.

7 CHAIRPERSON MILLER: Yes?

8 MEMBER ALBERTI: Madam Chair, I just
9 want --

10 CHAIRPERSON MILLER: Yes.

11 MEMBER ALBERTI: -- to again, I'm
12 going to beat a dead horse. First of all, the
13 Council didn't reject the notion of if you don't
14 ask for an ID, it's not egregious. Council was
15 never even faced with that choice. And then
16 that's a matter of public record.

17 But to go to Mr. Short's and Mr.
18 Silverstein --

19 CHAIRPERSON MILLER: In committee?

20 MEMBER ALBERTI: The Council was never
21 presented with that choice.

22 To go to Mr. Short and Mr.

1 Silverstein's point, I think the point of
2 choosing the age of 16 is that I believe that any
3 reasonable person faced with a 16 year-old would
4 -- it's I would say I think it's reasonable to
5 expect that any rational person -- I would -- it
6 -- how do I want to say this?

7 I think it is incumbent upon us to
8 expect that any reasonable person faced with a 16
9 year-old would ask -- would be prompted to ask
10 for an ID. I don't think that it's not
11 reasonable that you are going to be sitting there
12 looking at a 16 year-old and say oh, I don't need
13 to ask for an ID, that person can't be under 21.

14 At the age of 20, well, you know,
15 maybe you could be fooled. But at the age of 16,
16 I don't think any reasonable person is going to
17 be so convinced that that person is of age, that
18 they wouldn't be prompted to ask for an ID.

19 CHAIRPERSON MILLER: Okay. Thank you.

20 MEMBER ALBERTI: That's it.

21 CHAIRPERSON MILLER: Others? Okay.

22 All right. Then --

1 MEMBER RODRIGUEZ: Madam Chair?

2 CHAIRPERSON MILLER: Yes?

3 MEMBER RODRIGUEZ: Serving a minor is
4 very serious. I agree with that. I'm a little
5 confused about, you know, the numbers on the
6 legislation. And I just -- but I do agree that
7 it is a very serious offense. And I agree that
8 you should always ask for an ID without doubt,
9 without question. That's where the problem
10 starts when they don't ask for the ID.

11 Just some of the details on the
12 numbers. It has been a little bit confusing to
13 me, not that the violation is not serious. I'll
14 just say that for the record.

15 CHAIRPERSON MILLER: Okay. Anybody
16 else? Okay. Any other comments on any of the
17 other regs? All right.

18 Then I move to approve the Technical
19 Amendment Rulemaking.

20 MEMBER BROOKS: Second.

21 CHAIRPERSON MILLER: Mr. Brooks has
22 seconded the motion.

1 All those in favor say aye.

2 ALL: Aye.

3 CHAIRPERSON MILLER: All those
4 opposed? All those abstaining? The motion
5 passes 6-0-0.

6 Okay. Good. That completes our Legal
7 Agenda. Moving to our Licensing Agendas. Okay.
8 The Licensing Agendas.

9 The first item on the Licensing Agenda
10 is an application for a summer garden
11 endorsement. This is for Dupont Italian Kitchen
12 in ANC-2B. It is located at 1637 17th Street,
13 N.W., License No. 008949.

14 I move that we placard this
15 application. Do I have a second?

16 MEMBER SILVERSTEIN: Second.

17 CHAIRPERSON MILLER: Mr. Silverstein
18 seconded the motion.

19 All those in favor say aye.

20 ALL: Aye.

21 CHAIRPERSON MILLER: All those
22 opposed? All those abstaining? The motion

1 passes 6-0-0.

2 No. 2 is an application for a
3 manager's license for Asaad V. Lewis, ABRA No.
4 099637.

5 I move that we approve. Do I have a
6 second?

7 MEMBER SHORT: Second.

8 MEMBER SILVERSTEIN: Second.

9 CHAIRPERSON MILLER: Mr. Silverstein
10 seconded the motion.

11 All those in favor say aye.

12 ALL: Aye.

13 CHAIRPERSON MILLER: All those
14 opposed? All those abstaining? The motion
15 passes 6-0-0.

16 And No. 3 is an application for a
17 manager's license for Ishianna M. Foster, ABRA
18 No. 099566.

19 I move that we approve. Do I have a
20 second?

21 MEMBER BROOKS: Second.

22 CHAIRPERSON MILLER: Mr. Rodriguez

1 seconded the motion.

2 All those in favor say aye.

3 ALL: Aye.

4 CHAIRPERSON MILLER: All those
5 opposed? All those abstaining? The motion
6 passes 6-0-0.

7 MEMBER RODRIGUEZ: That was Mr.
8 Brooks.

9 CHAIRPERSON MILLER: Mr. Brooks
10 seconded it, excuse me.

11 Okay. So now we go to the
12 Supplemental Licensing Agenda.

13 The first item is a request for a
14 stipulated license from Someplace Else Bar and
15 Grill located at 1637 R Street, N.W., License No.
16 098935.

17 This request is not accompanied by a
18 letter from the ANC indicating the vote on this
19 and that a quorum was present, etcetera. We just
20 have an informal email in the record.

21 So I move that we refer this to
22 licensing pending action and it would return to

1 us, I guess, when a letter comes in. So the
2 motion is to refer to licensing. Do I have a
3 second?

4 MEMBER BROOKS: Second.

5 MEMBER SILVERSTEIN: Second.

6 CHAIRPERSON MILLER: Mr. Brooks
7 seconded the motion.

8 All those in favor say aye.

9 ALL: Aye.

10 CHAIRPERSON MILLER: All those
11 opposed? All those abstaining? The motion
12 passes 6-0-0.

13 No. 2 is a request for a stipulated
14 license and that does have a letter of ANC
15 support that is from ANC-2B. The establishment
16 is Pizza Studio located at 1333 New Hampshire
17 Avenue, N.W., License No. 098781.

18 I move that we approve this request.
19 Do I have a second?

20 MEMBER ALBERTI: Second.

21 CHAIRPERSON MILLER: Mr. Alberti
22 seconded the motion.

1 All those in favor say aye.

2 ALL: Aye.

3 CHAIRPERSON MILLER: All those
4 opposed? All those abstaining? The motion
5 passes 6-0-0.

6 No. 3 is another request for a
7 stipulated license. This is for a sidewalk cafe
8 and there is a letter of ANC support from ANC-2A.
9 The establishment is Beefsteak located at 800
10 22nd Street, N.W., License No. 097148.

11 I move that we approve. Do I have a
12 second?

13 MEMBER RODRIGUEZ: Second.

14 CHAIRPERSON MILLER: Mr. Rodriguez
15 seconded the motion.

16 All those in favor say aye.

17 ALL: Aye.

18 CHAIRPERSON MILLER: All those
19 opposed? All those abstaining? The motion
20 passes 6-0-0.

21 No. 4 is another request for a
22 stipulated license. This is for a sidewalk cafe.

1 It has a letter of support from ANC-6C. The
2 establishment is Batter Bowl Bakery located at
3 403 H Street, N.E., License No. 099176.

4 I move that we approve this
5 application. Do I have a second?

6 MEMBER BROOKS: Second.

7 MEMBER SILVERSTEIN: Second.

8 CHAIRPERSON MILLER: Who said that
9 down there?

10 MEMBER RODRIGUEZ: Mr. Brooks.

11 CHAIRPERSON MILLER: Mr. Brooks
12 seconded the motion.

13 All those in favor say aye.

14 ALL: Aye.

15 CHAIRPERSON MILLER: All those
16 opposed? All those abstaining? The motion
17 passes 6-0-0.

18 No. 5 is a letter from HRH Services,
19 LLC requesting reinstatement of application for a
20 new CR License in ANC-6C. The establishment is
21 The Alibi located at 237 2nd Street, N.W.,
22 License No. 097969.

1 I move that we postpone consideration
2 of this letter for a week.

3 MEMBER SHORT: Second.

4 CHAIRPERSON MILLER: Mr. Short has
5 seconded the motion.

6 All those in favor say aye.

7 ALL: Aye.

8 CHAIRPERSON MILLER: All those
9 opposed? All those abstaining? The motion
10 passes 6-0-0.

11 No. 6 is a letter from Attorney Andrew
12 J. Kline requesting to expand the premises to the
13 second floor to include 38 seats and a total
14 occupancy load of 43 and conceding this is a
15 substantial change. This is for Shaws Tavern
16 located at 520 Florida Avenue, N.W., License No.
17 098037, in ANC-6E.

18 I move that we placard. Do I have a
19 second?

20 MEMBER SILVERSTEIN: Second.

21 CHAIRPERSON MILLER: Mr. Silverstein
22 has seconded the motion.

1 All those in favor say aye.

2 ALL: Aye.

3 CHAIRPERSON MILLER: All those
4 opposed? All those abstaining? The motion
5 passes 6-0-0.

6 No. 7 is an application for an
7 entertainment endorsement to include live singer
8 with a two-piece instrument ensemble, poetry,
9 comedy, spoken verse and possibly a DJ in ANC-6E.
10 The establishment is Philos Mezze and Wine Bar
11 located at 401 Massachusetts Avenue, N.W.,
12 License No. 097687.

13 I move that we placard this
14 application. Do I have a second?

15 MEMBER SILVERSTEIN: Second.

16 CHAIRPERSON MILLER: Mr. Silverstein
17 has seconded the motion.

18 All those in favor say aye.

19 ALL: Aye.

20 CHAIRPERSON MILLER: All those
21 opposed? All those abstaining? The motion
22 passes 6-0-0.

1 No. 8 is an application for on-site
2 sales and consumption permit by Jos. A. Magnus &
3 Co. located at 2052 West Virginia Avenue, N.E.,
4 License No. 097825.

5 I move that we approve this
6 application. Do I have a second?

7 MEMBER SILVERSTEIN: Second.

8 CHAIRPERSON MILLER: Mr. Silverstein
9 seconded the motion.

10 All those in favor say aye.

11 ALL: Aye.

12 CHAIRPERSON MILLER: All those
13 opposed? All those abstaining? The motion
14 passes 6-0-0.

15 No. 9 is a request for placards from
16 Bill Stewart of Bardo, LLC in ANC-6D. Bardo
17 Riverfront is located at 25 Potomac Avenue, S.E.,
18 License No. 098547.

19 I move that we placard this
20 application. Do I have a second?

21 MEMBER SILVERSTEIN: Second.

22 CHAIRPERSON MILLER: Mr. Silverstein

1 has seconded the motion.

2 All those in favor say aye.

3 MEMBER ALBERTI: May I speak to this?

4 CHAIRPERSON MILLER: Yes. You want to
5 speak? Yes, please.

6 MEMBER ALBERTI: Yes. I don't believe
7 this application is ripe for placarding. I have
8 many concerns about the appropriateness. I
9 shouldn't say many. I have concerns, some
10 concerns about the appropriateness of this
11 license that I believe should be addressed before
12 -- well, I would like to see addressed before the
13 license is granted.

14 I think that they should be addressed
15 before we proceed to placarding, because they are
16 that important, in my opinion. However, if other
17 Board Members have no -- do not agree with me on
18 my concerns or have no concerns of their own,
19 then we can go through with placarding and if
20 there is no protest, then the license would just
21 go forward.

22 But if other Board Members do have

1 concerns or share my concerns, then we will
2 ultimately have to have a hearing on this
3 license. And if we are proceeding in that
4 direction of having a hearing at some point in
5 the future, I don't think that we should move
6 forward with the placarding until those concerns
7 are addressed.

8 But I can't speak for my other Board
9 Members, so I don't know if they have concerns
10 that would prevent this license from issuing if
11 not addressed.

12 CHAIRPERSON MILLER: Yes, Mr.
13 Silverstein?

14 MEMBER SILVERSTEIN: I thank you,
15 Madam Chair, and I thank my colleague for his
16 comments. I share the concerns, but I will be
17 voting in favor of placarding, because I believe
18 that it may be best and proper for the applicant
19 to have his hearing, to have his day.

20 The fact that we are going to placard
21 this does not mean in any way that we have
22 completed our work, that we have completed our

1 purview, that we are going to allow this simply
2 to go through without exercising our diligence in
3 this case, regardless of what others do.

4 MEMBER ALBERTI: So, Mr. Silverstein,
5 may I ask you a question? If there is no protest
6 to this license, how would your concerns be
7 addressed?

8 MEMBER SILVERSTEIN: We may still do
9 so, it's my understanding, with a contested Fact-
10 Finding Hearing.

11 MEMBER ALBERTI: So my concern now is
12 that the licensee has no notice that such a
13 hearing would take place in the future. So we
14 have sent off false expectations because
15 typically if there is no protest, then the
16 license issues because typically all of our
17 review happens before the placarding.

18 MEMBER SILVERSTEIN: I believe this
19 colloquy would give the applicant that proper
20 notice that we do have our concerns, that we are
21 going to allow it to go forward with this
22 particular process, which may give him at least

1 some time frame.

2 MEMBER ALBERTI: Only if he has the
3 foresight to look at the transcript of this
4 hearing, otherwise --

5 MEMBER SILVERSTEIN: Or the
6 clairvoyance.

7 MEMBER ALBERTI: Or the clairvoyance,
8 yes, exactly. So it's my concern that the
9 licensee is somehow -- in some way is being
10 misled without proper notice of what the likely
11 direction the Board will go in terms of holding
12 future hearings is not happening.

13 MEMBER SILVERSTEIN: This is not a
14 perfect process. I think we all understand that.
15 And I think that you and I are both looking to
16 the same thing. We are just going at it from
17 different sides.

18 MEMBER ALBERTI: Thank you.

19 MEMBER SHORT: Madam Chair?

20 CHAIRPERSON MILLER: Yes, Mr. Short?

21 MEMBER SHORT: I would like to go on
22 the record also as saying or stating that I have

1 reservations about placarding this establishment
2 or this application. However, I don't think we
3 have any other avenues to follow if we are going
4 to give this applicant due process.

5 And as I understand it, any protest
6 for non or lack there of still can trigger this
7 body to have a hearing as to the appropriateness
8 of this license.

9 MEMBER ALBERTI: Mr. Short, I guess we
10 have a different understanding then. I disagree
11 with your assumption that we have to go forward
12 with the placarding before we have a hearing. I
13 think that we could hold a hearing on any issues
14 that Board Members may have before we placard.

15 CHAIRPERSON MILLER: I --

16 MEMBER ALBERTI: I believe that that's
17 a possibility and I think it's a better -- I
18 think it's a fairer route to take for this
19 licensee, because it doesn't give them any false
20 hopes of when and if the license would be
21 approved.

22 MEMBER SHORT: I respect your opinion.

1 MEMBER ALBERTI: Okay.

2 CHAIRPERSON MILLER: I would just like
3 to say that I think that the applicant is due a
4 hearing, at this point, under our statute. And
5 that type of hearing that is provided in our
6 statute is a protest and that that is a hearing
7 at which the public, MPD, the Board Members can
8 all ask questions and that the applicant is due
9 that, at this point.

10 If for some reason there are no
11 protests or whatever, I would concur that the
12 Board certainly has, well, I think, the authority
13 to schedule a Fact-Finding Hearing, at that
14 point, so that we can address questions that
15 Board Members have.

16 So I don't think the reverse order
17 would be right. I think that we need to go in
18 this order and perhaps at the Protest Hearing all
19 questions can be resolved, if there is one. But
20 this applicant has been waiting a while and has
21 gotten in all the materials that we have asked of
22 them.

1 And so I think, at this point, it's
2 time to placard and move forward.

3 MEMBER ALBERTI: Well, I'll just sum
4 up by saying that we are, I believe, I firmly
5 believe, setting up false expectations for this
6 licensee. And that he is going to be very
7 surprised when he learns that the Board intends
8 to hold a hearing when no protest is file.

9 CHAIRPERSON MILLER: Yes. Well, we
10 can deal with that separately if we determine
11 that we need to send them a letter or whatever,
12 but, at this point, there is no reason, I don't
13 believe, to interfere with the normal process or
14 stop it from moving forward.

15 So are we ready to take a vote on
16 this?

17 MEMBER SILVERSTEIN: Yes.

18 CHAIRPERSON MILLER: Okay. Then I
19 move that we placard this application. Do I have
20 a second?

21 MEMBER SILVERSTEIN: Second.

22 CHAIRPERSON MILLER: Mr. Silverstein

1 seconded the motion.

2 All those in favor say aye.

3 MEMBER RODRIGUEZ: Aye.

4 CHAIRPERSON MILLER: Aye.

5 MEMBER SILVERSTEIN: Aye.

6 MEMBER BROOKS: Aye.

7 MEMBER SHORT: Aye.

8 CHAIRPERSON MILLER: All those
9 opposed?

10 MEMBER ALBERTI: Opposed.

11 CHAIRPERSON MILLER: All those
12 abstaining? The motion passes then 5-1-0 with
13 Mr. Alberti opposed.

14 Okay. No. 10 is a request for a
15 stipulated license with letter of ANC support.

16 Okay. This is for Bistro on U Street, 926-928 U
17 Street, N.W., in ANC-1B, License No. 098081.

18 And I would move to deny this request
19 because a protest has already been filed and
20 under our regulations, you can't -- an applicant
21 can't serve liquor under a stipulated license
22 once a protest has been filed. Do I have a

1 second?

2 MEMBER ALBERTI: Second.

3 CHAIRPERSON MILLER: Mr. Alberti
4 seconded the motion. Any other comments?

5 All those in favor say aye.

6 ALL: Aye.

7 CHAIRPERSON MILLER: All those
8 opposed? All those abstaining? The motion
9 passes 6-0-0.

10 We have a Second Supplemental
11 Licensing Agenda.

12 No. 1 and only on that is a request to
13 rescind approval of 405.1, establishment, due to
14 non-renewal and failure to pay annual fees. This
15 is in ANC-2C. And the establishment is Wagamama
16 located at 418 7th Street, N.W., License No.
17 089714.

18 And I believe the appropriate action
19 is to cancel the license under 405.1. Do I have
20 a second?

21 MEMBER RODRIGUEZ: Second.

22 CHAIRPERSON MILLER: Mr. Rodriguez

1 seconded the motion.

2 All those in favor say aye.

3 ALL: Aye.

4 CHAIRPERSON MILLER: All those
5 opposed? All those abstaining? The motion
6 passes 6-0-0.

7 Okay. So that concludes our agendas
8 for July 22, 2015. And what is left is to take
9 our votes on the closed meetings for next
10 Wednesday.

11 As Chairperson of the Alcoholic
12 Beverage Control Board for the District of
13 Columbia and in accordance with DC Official Code
14 Section 2-574(b) of the Open Meetings Act, I move
15 that the ABC Board hold a closed meeting on July
16 31, 2015 for the purpose of seeking legal advice
17 from our counsel on the matters identified on the
18 Board's Agenda for July 31, 2015 as published in
19 the DC Register on July 24, 2015.

20 Is there a second?

21 MEMBER BROOKS: Second.

22 CHAIRPERSON MILLER: Mr. Brooks has

1 seconded the motion. I'll now take a roll call
2 vote on the motion before us now that it has been
3 seconded.

4 Mr. Brooks?

5 MEMBER BROOKS: I agree.

6 CHAIRPERSON MILLER: Mr. Alberti?

7 MEMBER ALBERTI: I agree.

8 CHAIRPERSON MILLER: Mr. Rodriguez?

9 MEMBER RODRIGUEZ: I agree.

10 CHAIRPERSON MILLER: Ms. Miller
11 agrees.

12 Mr. Silverstein?

13 MEMBER SILVERSTEIN: I agree.

14 CHAIRPERSON MILLER: Mr. Short?

15 MEMBER SHORT: I agree.

16 CHAIRPERSON MILLER: It appears that
17 the motion has passed by a 6-0-0 vote.

18 I hereby give notice that the ABC
19 Board will hold this aforementioned closed
20 meeting pursuant to the Open Meetings Amendment
21 Act of 2010. Notice will also be posted on the
22 ABC Board hearing room bulletin board, placed on

1 the electronic calendar on ABRA's website and
2 published in the DC Register in as timely a
3 manner as practicable.

4 As Chairperson of the Alcoholic
5 Beverage Control Board for the District of
6 Columbia and in accordance with DC Official Code
7 Section 2-574(b), closed meetings, and Section 2-
8 574, notice of meetings, of the Open Meetings
9 Act, I move that the ABC Board hold a closed
10 meeting on July 31, 2015 for the purpose of
11 discussing and hearing reports concerning ongoing
12 or planned investigations of alleged criminal or
13 civil misconduct or violations of law or
14 regulations and seeking legal advice from our
15 counsel on the Board's Investigative Agenda for
16 July 31, 2015 as published in the DC Register on
17 July 24, 2015.

18 Is there a second?

19 MEMBER BROOKS: Second.

20 CHAIRPERSON MILLER: Mr. Brooks
21 seconded the motion. I'll now take a roll call
22 vote on the motion before us now that it has been

1 seconded.

2 Mr. Brooks?

3 MEMBER BROOKS: I agree.

4 CHAIRPERSON MILLER: Mr. Alberti?

5 MEMBER ALBERTI: I agree.

6 CHAIRPERSON MILLER: Mr. Rodriguez?

7 MEMBER RODRIGUEZ: I agree.

8 CHAIRPERSON MILLER: Ms. Miller

9 agrees.

10 Mr. Silverstein?

11 MEMBER SILVERSTEIN: I agree.

12 CHAIRPERSON MILLER: Mr. Short?

13 MEMBER SHORT: I agree.

14 CHAIRPERSON MILLER: It appears that
15 the motion has passed by a 6-0-0 vote.

16 I hereby give notice that the ABC
17 Board will hold this aforementioned closed
18 meeting pursuant to the Open Meetings Amendment
19 Act of 2010. Notice will also be posted on the
20 ABC Board hearing room bulletin board, placed on
21 the electronic calendar on ABRA's website and
22 published in the DC Register in as timely a

1 manner as practicable.

2 And that concludes our business for
3 July 22, 2015 and we are adjourned.

4 (Whereupon, the A.B.R.A. Agenda in the
5 above-entitled matter was concluded at 3:36 p.m.)
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